AUG Z 5 2005

08/26/2005 01 FC:1814 PTO/SB/25 (09-04)

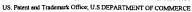
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
nder the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

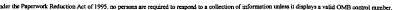
TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING **REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional) **HRT 293**

In re Application of: Stevens et al			·
Application No.: 10/099,690			
Filed: March 15, 2002			
For: METHOD AND APPARATUS FOR THORASCOPIC IN	NTRACARDIAC PROC	EDURES	
The owner*, Heartport, Inc. except as provided below, the terminal part of the statutory the expiration date of the full statutory term of any patent gron May 1, 2003 as such term is defined in 3 application may be shortened by any terminal disclaimer fill hereby agrees that any patent so granted on the instant ap granted on the reference application are commonly owner binding upon the grantee, its successors or assigns.	y term of any patent granted on pending refe 35 U.S.C. 154 and 173, led prior to the grant of optication shall be enfor	rence Application Number 10/ , and as the term of any paten any patent on the pending refer ceable only for and during such	which would extend beyond 427,438 filed it granted on said reference rence application. The owner period that it and any patent
In making the above disclaimer, the owner does not disclein extend to the expiration date of the full statutory term a application, "as the term of any patent granted on said reference application," is expired for failure to pay a maintenance fee, is held unenfor in whole or terminally disclaimed under 37 CFR 1.321, has terminated prior to the expiration of its full statutory term as	as defined in 35 U.S.C ference application ma in the event that: any su rceable, is found invalid s all claims canceled by	C. 154 and 173 of any patent by be shortened by any termina ach patent: granted on the pendil by a court of competent jurisdic a reexamination certificate, is r	granted on said reference of disclaimer filed prior to the ing reference application: ction, is statutorily disclaimed reissued, or is in any manner
Check either box 1 or 2 below, if appropriate.			
For submissions on behalf of a business/organizati etc.), the undersigned is empowered to act on behalf of a business or submissions.			ent agency,
I hereby declare that all statements made herein belief are believed to be true; and further that these stater made are punishable by fine or imprisonment, or both, un- statements may jeopardize the validity of the application or	ments were made with der Section 1001 of Ti	the knowledge that willful false tle 18 of the United States Coo	e statements and the like so
2. The undersigned is an attorney or agent of record.	Reg. No. 41,349	<u> </u>	
/E	Brian S. Tomko/		August 22, 2005
	Signature		Date
	Brian S.		*
CHACCEN4 AAAAAA33 4AACOCGA	Typed or p	rinted name	
SHASSEN1 00000033 10099690			732 524 1239
130.00 DA		Te	elephone Number
Terminal disclaimer fee under 37 CFR 1.20(d) is includ	led.		
		•	
WARNING: Information on this form be included on this form. Provide			
*Statement under 37 CFR 3.73(b) is required if terminal disc Form PTO/SB/96 may be used for making this statement. So		assignee (owner).	

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.





Docket Number HRT0293_

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

In re Application of:

Stevens et al.

Application No.:

10/099,690

Filed:

March 15, 2002

For:

Method & Apparatus for Thoracoscopic Intracardiac Procedures

The owner*, Heartport, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,829,447. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all, claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the C expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. [] For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. [X] The undersigned is an attorney or agent of record.

Signature /Brian S. Tomko/ Date: August 22, 2005

Typed or printed name Brian S. Tomko, Reg. # 41,349

[x] Terminal disclaimer fee under 37 CFR1.20(d) to be charged to Deposit Account No. 10-0750.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner) Form PTO/SB/96 may be used for making this certification. See MPEP § 324.